

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 5005-000001/RE

Group Art Unit: Not yet assigned
Examiner: Not yet assigned
Applicant: Moscovitch
Serial No.: Not yet assigned
Filed: Herewith
For: Dual Display System

**Declaration of Jerry
Moscovitch**

DECLARATION OF JERRY MOSCOVITCH

The above named petitioner, Jerry Moscovitch, declares as follows:

1. That I, Jerry Moscovitch, am a citizen of Canada, residing at 59 Cowar Avenue, Toronto, Ontario, Canada M6K 2N1, and that I am the original and sole inventor of the invention described and claimed in United States patent application Serial No. 638,158 (hereinafter the "'158 application") which matured into U.S. Patent No. 5,687,939 hereinafter the "'939 patent", issued November 18, 1997, for which reissuance hereof is sought.

2. I have reviewed and understand the contents of the specification including the original claims and those claims sought to be added by this reissue application.

3. I acknowledge the duty to disclose information material to the examination of this reissue application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

reason of claiming less literally than I had a right to claim in the patent and because of the resultant error in the literal scope of the claims; namely, by limiting all of the claims of the patent to the recitation of elements unnecessary to define the invention in a literal reading in its broadest aspects (although not believed to be so limiting under the doctrine of equivalents and other legal principles), and primarily by reason of the specific wording of all of the claims to specifically recite that the positioning means positions the displays in vertically registered relationship and in horizontally registered relationship, and further that a "base member" for supporting the supporting means and the arm assembly.

5. The differences and similarities between the existing patent claims (which are to be reissued in their present form, without change) and new claim 16 (which is requested to be added by reissue) are indicated below, wherein language deleted from that of corresponding existing claims is bracketed:

16. A display system comprising:

[a base member;]

a pair of electronic displays[, each of the displays having an operative angular orientation relative to horizontal];

positioning means for positioning the displays [selectively in vertically registered relationship and in horizontally registered relationship], the positioning means comprising:

- (a) an arm assembly for supporting the displays;
- (b) support means for supporting the arm assembly [from the base selectively in a first orientation relative to the base in which the displays are in their vertically registered

- relationship and in a second orientation in which the displays are in their horizontally registered relationship]; and
- (c) mounting means for mounting the displays to the arm assembly, the mounting means comprising means for adjusting the angular orientation of each of the displays relative to the arm assembly to thereby permit said displays to be angled relative to each other to a desired degree [thereby to orient each of the displays in its operative angular orientation when the arm assembly is in either one of its first and second orientations].

6. At the time of filing and during the prosecution of the '158 application, neither I nor my patent attorney, Mirek A. Waraksa, appreciated that the existing claims of the '158 application were unnecessarily literally limited as noted above. Mr. Waraksa is a Barrister & Solicitor in Ontario, Canada and holds a degree in engineering, and is also a registered patent and trademark agent in Canada. He is also registered in the U.S. Patent Office as a "non-resident" patent agent. He has trained with one of the most reputable and experienced patent firms in Toronto, Ontario, Canada and to my best understanding and belief has been in practice more than 10 years. He was recommended to me as a very capable and skilled lawyer in the art of U.S. patent application preparation and prosecution. I relied on Mr. Waraksa's professional judgement that a claim of the scope as claim 6 above was not patentable in view of the prior art that Mr. Waraksa and I reviewed prior to preparing and filing the '158 application.

7. Upon the grant of the '939 patent, both I and Mr. Waraksa still did not appreciate that the claims of the '939 patent were unnecessarily limited in view of the prior art.

8. Due to personal problems he was having that seriously affected the management of his practice, Mr. Waraksa did not even inform me of the issuance of the '939 patent in November, 1997 when I contacted him to inquire as to the status of the '158 application in December, 1997.

9. In January of 1998, I became very concerned with Mr. Waraksa's failure to answer correspondence from me. I then contacted Mr. George A. Rolston, Barrister & Solicitor, Patent and Trademark agent, practicing with Miller Thomson, Barristers and Solicitors at 20 Queen Street West in Toronto, Ontario, to discuss this matter and my concerns. Mr. Rolston is a patent lawyer of some 40 years experience and is registered both in Canada as a patent agent and also as a non-resident patent agent in the United States.

10. In March, I obtained the '158 application file from Mr. Waraksa and provided the file to Mr. Rolston. It was only then that I learned of the issuance of the '939 patent. I explained to Mr. Rolston, just as I had initially to Mr. Waraksa, that my desire had always been to obtain a U.S. patent covering the displays being supported on a mounting arm, where the mounting arm was capable of being moved between vertical and horizontal orientations to thus support the displays attached to it in either a horizontal (i.e., side-by-side) fashion or in a vertical (i.e., one above the other) fashion, and also where the two displays could be adjusted themselves relative to the support such that they were angled toward each other. Angling the displays toward each other

allows glare, which can interfere with the viewing of flat panel displays, to be easily eliminated.

11. Mr. Rolston reviewed the prior art that I and Mr. Waraksa had reviewed and informed me that, in his professional judgment the claims of the '939 patent were clearly unnecessarily limited in view of the teachings of this prior art. He then advised me of the possibility of reissuing the '939 patent to include claims which are not limited strictly to the horizontal and vertical positioning feature, but more broadly set forth the feature of allowing the two displays to be angled toward each other and relative to the support member.

12. In July, 1998, I was advised by a business associate that I might contact Mr. H. Keith Miller, a senior principal with the law firm of Harness, Dickey & Pierce, P.L.C., 5445 Corporate Drive, Troy, Michigan 48098, to obtain a further opinion on this matter. Mr. Miller is a registered U.S. patent attorney with some 30 years experience in U.S. patent application preparation and prosecution. Mr. Miller reviewed this matter and discussed it with another principal at Harness, Dickey & Pierce, Mr. Mark D. Elchuk. Both Messrs. Miller and Elchuk also concluded that the claims of the '939 patent were clearly unnecessarily limited to the vertical and horizontal positioning feature, in view of the teachings of the patents that I and Mr. Waraksa had reviewed.

In a subsequent conversation with Mr. Elchuk on or about September 21, 1995, it was determined that the independent claims were also unnecessarily limited to a "base member". Mr. Elchuk explained to me that he did not feel this limitation was required for the patentability of the independent claims of the '939 patent, although prior to this conversation both Mr. Waraksa and I were both of the belief that this limitation was

necessary for patentability of the claims of the '939 patent. Messrs. Miller and Elchuk recommended that I seek reissue of the '939 patent to add at least one independent claim which is not limited to the base member and to the vertical and horizontal positioning feature recited in Claim 1. In August, I authorized Mr. Miller and his law firm to prepare and file the necessary documents for reissuing the '939 patent.

13. The errors and omissions arose inadvertently and without fraudulent or deceptive intent on my part.

14. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date:

Oct 1/98


Jerry Moscovitch

Official

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MAY 25 1999

GROUP 3600

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